City Council Introduction: Monday, June 14, 2004 Public Hearing: Monday, June 21, 2004, at 1:30 p.m.

Bill No. 04-122

FACTSHEET

TITLE: CHANGE OF ZONE NO. 04009, from AG Agricultural District to R-3 Residential District, requested by Ridge Development Company, Southview, Inc. and Pine Lake Heights Joint Venture, on property generally located northeast of South 56th Street and Yankee Hill Road.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUESTS: Annexation No. 04007 (04-121 and Annexation Agreement (04R-148).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission

Public Hearing: 05/12/04 Administrative Action: 05/12/04

RECOMMENDATION: Approval (8-1: Krieser, Carlson, Sunderman, Carroll, Taylor, Larson, Marvin and Bills-

Strand voting 'yes'; Pearson voting 'no').

FINDINGS OF FACT:

- 1. This change of zone request and the associated annexation and Big Thompson Creek 1st Addition preliminary plat were heard at the same time before the Planning Commission.
- The staff recommendation to approve the change of zone request is based upon the "Analysis" as set forth on 2. p.4, concluding that the annexation and change of zone requests are in general conformance with the Comprehensive Plan.
- 3. The applicant's testimony is found on p.6.
- 4. The other testimony was stated to be in a neutral position with concerns about the taking of additional right-of-way on the south side of Yankee Hill Road, and with concerns about the dirt work that has already occurred on the subject property (See Minutes, p.7-8). The applicant's response and the discussion with the Commission is found on p.8-9.
- 5. On May 12, 2004, the majority of the Planning Commission agreed with the staff recommendation and voted 8-1 to recommend approval (Commissioner Pearson dissenting due to extent of grading and unimaginative layout -See Minutes, p.9).
- 6. On May 12, 2004, the Planning Commission also adopted Resolution No. PC-00865, approving the Big Thompson Creek 1st Addition preliminary plat and the associated waiver requests.

FACTSHEET PREPARED BY: Jean L. Walker	DATE : June 7, 2004
REVIEWED BY:	DATE : June 7, 2004

REFERENCE NUMBER: FS\CC\2004\CZ.04009

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for May 12, 2004 PLANNING COMMISSION MEETING

P.A.S.: Annexation #04007

Change of Zone #04009

PROPOSAL: ANN#04007 - To annex 53.32 acres for residential development in

conjunction with the preliminary plat of Big Thomson Creek 1st Addition.

CZ#04009 - To change the zoning from AG to R-3 on 53.32 acres for residential development in conjunction with the preliminary plat of

Big Thomson Creek 1st Addition.

LOCATION: Northeast of South 56th Street and Yankee Hill Road.

LAND AREA: Approximately 53.32 acres.

CONCLUSION: These annexation and change of zone requests are in general

conformance with the Comprehensive Plan.

RECOMMENDATION:

Annexation #04007 Find that this request is in conformance with the

Comprehensive Plan and Approval

<u>Change of Zone #04009</u> <u>Approval</u>

GENERAL INFORMATION:

LEGAL DESCRIPTION: ANN#04007 See attached legal description.

CZ#04009 See attached legal description.

EXISTING ZONING: AG Agriculture **EXISTING LAND USE**: Agriculture

PROPOSED ZONING: R-3 Residential

SURROUNDING LAND USE AND ZONING:

North: Residential (Big Thompson Creek under development) R-3

South: Residential AGR
East: Agriculture AG
West: Residential AGR

ASSOCIATED APPLICATIONS:

PP#04004 - The preliminary plat of Big Thompson Creek to create 336 lots and five outlots.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F25 - The future land use map designates urban residential land use for this area.

Page F31 - This area is shown as Priority Area A of Tier 1 within of the City's Future Service Limit. Lands within Priority Area A should be provided with basic infrastructure within 12 years of adoption of the Plan.

The Comprehensive Plan's Annexation Policy is found on pages F-154 and 155 of the 2025 Comprehensive Plan. Some relevant excerpts are as follows:

Page F154 - The provision of municipal services shall coincide with the jurisdictional boundaries of the City – in short, it is not the intent of the City of Lincoln to extend utility services (most notably, but not necessarily limited to, water and sanitary water services) beyond the corporate limits of the City.

- The extension of water and sanitary sewer services shall be predicated upon annexation of the area by the City. City annexation shall occur before any property is provided with water, sanitary sewer, or other potential City services.
- Land which is remote or otherwise removed from the limits of the City of Lincoln will not be annexed; land which is contiguous to the City and generally urban in character may be annexed; and land which is engulfed by the City should be annexed.
- Annexation generally implies the opportunity to access all City services. Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (e.g., water, sanitary sewer), and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area.

UTILITIES: Water- Funding for the extension of the 24" water main in South 56th Street is shown in the Capital Improvement Program (CIP) through the year 2009.

Sanitary Sewer - The approximate north half of Big Thompson Creek 1st Addition can be served by connecting to the sanitary sewer in Thompson Creek subdivision adjacent to the north. However, there is not capacity in trunk sewer to accommodate those lots south of Bridle Lane until the Beal Slough Trunk Sewer Relief Project is completed. When done, the project will provide adequate capacity to support this portion of the development. Funding for the relief trunk sewer is shown in the CIP through the year 2008.

PUBLIC SERVICE: Annexation is necessary for connection to the City's water and sewer systems. After annexation, all municipal services will be provided. Engine #6 at South 48th and Claire Streets is the nearest existing fire station, although this plat shows a potential future fire station site on Lot 5, Block 1. Gere Library is located at South 56th and Normal Blvd, and a potential future school site is shown on the property immediately east of this project. A future neighborhood park is to be collocated on the school site.

ANALYSIS:

- 1. This request represents the approximate south one-half of Big Thompson Creek 1st Addition. The site is outside the city limit, but within the Future Service Limit and must be annexed to receive City services.
- 2. Annexation policy of the Comprehensive Plan:
 - -To not extend water and sanitary sewer services beyond the city limits. Annexation shall occur before any property is provided water, sanitary sewer, and other city services.

Sanitary sewer service is available to the site. However, the lots south of the proposed Bridle Lane cannot be developed until the Beal Slough Trunk Relief Project is completed and adds additional capacity to the system.

-Land which is contiguous and generally urban in character may be annexed.

The area is contiguous, and the preliminary plat shows urban-density development.

- Annexation generally implies the opportunity to access all City services.

The area is within the future service limits.

- Plans for the provision of services within the areas considered for annexation should be carefully coordinated with the Capital Improvements Program of the city."

Funds have been allocated in the C.I.P. to provide utilities to serve this area.

- 3. In June, 2003, the approximate north one-half of this development was annexed and the zoning was changed from AG to R-3 for the Big Thompson Creek preliminary plat. The associated preliminary plat includes both Big Thompson Creek and 53 acres of land adjacent to the south.
- 4. The proposed change of zone to R-3 will allow development as shown on the preliminary plat of Big Thomson Creek, with 336 residential lots.
- 5. An annexation agreement among the owners and the City of Lincoln is required.

CONDITIONS:

Annexation #04007

1. The owners will enter into an annexation with the City of Lincoln.

Prepared by:

Brian Will, AICP, 441-6362, bwill@ci.lincoln.ne.us
Planner
April 27, 2004

APPLICANTS: Ridge Development Company,

Southview, Inc., Pine Lake Heights

Joint Venture

3355 Orwell Street, Suite 100

Lincoln, NE 68516

OWNERS: Ridge Development Company, Northwoods, LLC

Southview, Inc., Pine Lake Heights 7000 S. 56th Street

Joint Venture Lincoln, NE 68516

3355 Orwell Street, Suite 100

Lincoln, NE 68516

CONTACT: Mark Palmer

Olsson Associates 1111 Lincoln Mall Lincoln, NE 68508

CHANGE OF ZONE NO. 04009

ON PROPERTY GENERALLY LOCATED AT SOUTH 56[™] STREET AND YANKEE HILL ROAD. PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 12, 2004

Members present: Krieser, Pearson, Carlson, Sunderman, Carroll, Taylor, Larson, Marvin and Bills-Strand.

<u>Staff Recommendation</u>: Approval of the annexation and change of zone, and conditional approval of the preliminary plat.

Ex Parte Communications: None.

<u>Proponents</u>

1. DaNay Kalkowski appeared on behalf of Ridge Development Company, Southview, Inc, and Developments Unlimited. The original plat for Big Thompson Creek was approved in June 2003, which created 158 single family lots. The 1st Addition includes that original area and adds 53 acres of property and 178 residential lots to the south. The area originally platted has been included because the street layout is being revised in the northeast corner to accommodate the planned future school site directly to the east.

The developer met with the neighbors in March and most of their questions dealt with the city's plans for the ultimate widening of S. 56th and Yankee Hill Road. The developer is dedicating the right-of-way easements on their property to accommodate the ultimate construction of S. 56th and Yankee Hill Road. On the east side of 56th, the developer is dedicating 60' of right-of-way at the intersection with Yankee Hill Road. In addition, as you go north, the developer is granting 50' but adding on a 10' landscape and pedestrian access easement to do the sidewalk and landscaping in that additional 10'. On Yankee Hill Road, the developer is granting 70' on their side up at the intersection and then dedicating 60' as you go to the east throughout the remainder of the property. The developer is also dedicating a 10' easement for the trail to be located on the north side of Yankee Hill Road.

The developer is in agreement with the conditions of approval. While there was a substantial list of waiver requests, Kalkowski advised that at least half were previously requested and granted with the original preliminary plat.

Marvin inquired as to the kind of screening there will be along 56th Street where the houses back up to 56th Street. Kalkowski stated that they are proposing a fence screen.

Carlson referred to the landscape plan and asked for further explanation of the fence. Kalkowski explained that the fence would be to the east of the sidewalk and 10' into the property. There would be street trees and sidewalks on the west side of the fence.

Carlson commented that basically, this developer has done some great and unique things and he is confident that Campbell will do some unique and great things with the property to the north. Here are some sections of arterials in town with nothing but board fence on both sides and he is hoping this will not be the same case in these developments. Kalkowski's response was that the developer is required to provide screen along the arterial street and that is usually the screen of choice for the developers and the neighbors, and she believes that is the choice here. Carlson noted that there are some items on the Planning Commission pending list that would broaden what would be required along major streets. He urged that there is a need to look at how we could accomplish not having solid lines of fence on both sides of the street.

Pearson asked whether Ridge Development has ever heard of new urbanism. Has your client discussed it? This looks like sprawl to Pearson. There is no multi-use. It is strictly one kind, one size fits all. Did they consider anything else? Kalkowski stated that at one time the whole entire first phase was considered as apartments, but right now the market is single family lots and that is what their builders are asking for.

Marvin inquired as to the anticipated price range. Kalkowski did not know, but the lot prices are going up from what they originally started talking about. It is significantly higher now but she did not know the number.

Opposition

- 1. Gary Hergenrader, 5701 Yankee Hill Road, stated that he is speaking in a neutral position; however, he believes he should be in opposition because this development is going to destroy a lot of the values of his property, which he built 18 years ago. He is not in opposition because it is futile because the developer has already put hundreds of yards of fill into the property and spent hundreds of thousands of dollars to reverse the drainage to make it flow to the north so that they could utilize the sewer system. One thing that can be done has to do with Yankee Hill Road. In March, five neighbors along Yankee Hill Road sent a letter to the Mayor with copies to Public Works, Planning and the engineer in charge of this survey. The south side of Yankee Hill Road is all developed acres. If additional right-of-way is taken on the south side, the trees will be destroyed or removed. In 1997, the county took additional right-of-way to make 100' and they promised that no more right-of-way would be needed. That is obviously not the case. Hergenrader and his neighbors are suggesting that it would be cheaper for the taxpayer if the additional right-of-way required along Yankee Hill Road be taken from the undeveloped farm land on the north side of the road rather than to take it from the south side, remove the tress and cause other property damage.
- **2. John Griffin,** 8500 S. 56th Street, is neither for nor against the zoning, but he is against the process. The land on the west portion being changed from AG to R-3 does not actually look like it does on the map at the moment. It did look like the map just a month ago. But today, the pond in the center and the drainage going south no longer exist. This is putting the cart before the horse. This land is no longer agricultural. It has been modified and been mined and it looks like a mine reclamation project at the moment. He showed a photograph looking north from Yankee Hill Road showing the embankment of dirt along the road which has been covered with little topsoil mixed with manure. He also showed a photo looking east from 56th Street, showing the barn and shed. The only remaining natural soil is just beneath the barn. This is no longer agricultural land. Along the west side of the property along 56th Street there was a series of small trees that may have been planted four years ago

by the former farmer. Two weeks ago they were all dug up and removed. Following the removal of all the soil and the mining reclamation, a sign went up for the change of zone. He believes there is a problem with the process.

Response by the Applicant

With respect to the right-of-way issue on 56th & Yankee Hill Road, Kalkowski explained that to have been one of the discussions at the neighborhood meeting. The city has changed their standard for the amount of right-of-way for major arterial roads. The developer has actually dedicated their half of the right-of-way plus the trail, and on Yankee Hill Road, the plan shows an outlot. When the city gets to the design of Yankee Hill Road and they want to shift it to the north, there is an outlot there that provides that flexibility. We don't have the same flexibility on 56th because of an LES power line. This developer has tried to put some things in place to allow some flexibility with respect to the right-of-way.

With respect to some of the grading that has occurred, Kalkowski stated that the property owners acquired the north property first and came in with the preliminary plat, and then afterwards acquired the property to the south. To address all of the sewer issues, this developer was required to change the plans and do some regrading in order to be able to finish those streets, which is what precipitated the grading ahead of time to accommodate the infrastructure that is being installed on the property to the north. This development is draining a portion of this property over the ridge because the area to the south to be sewered would sewer along with the acreages on the south side of Yankee Hill Road. In order to provide sewer, the sewer would have to come up through those acreages and it is a long way out in the future until that sewer line is ready to come through the acreages. We do not have a capacity issue once the Beal Slough improvements are done. This development is going to extraordinary lengths to sewer and serve this. It makes sense to have the cut-off line be Yankee Hill Road.

Kalkowski also pointed out that the developer did notify the city and the neighbors at the meeting held in March that they would be out there doing some grading.

In addition, Kalkowski pointed out that there is an outlot shown along 56th and along Yankee Hill Road that will contain landscaping. The trees that have been removed have been relocated to other locations.

Carlson notes that this development has laid out the geography for making the shift to Yankee Hill Road to the north. Are you talking about a future purchase? Is it common for the city to require more from one side than the other side? Kalkowski believes it is uncommon. Rick Peo of City Law Department also believes it is uncommon for the staff to ask for more than one-half. This developer has provided opportunity for the city to pay for any extra right-of-way they would desire. He does not believe they can be required to dedicate more than their fair share. Carlson wondered about the property owners on the other side contributing to the cost. Peo was not aware of such a situation.

Carlson noted that this is not a straight preliminary plat because there are a lot of associated waivers. What would be the opportunity to talk about additional screening on the arterial side of the fencing? Peo believes that the applicant has complied with the required standards. If the city requires more than the standard, the city would have to show that this development is different from any other development. The standards have been developed and if they comply with the standards, they would be satisfying

the public need. Unless the public need is demonstrating something above and beyond, he does not believe the city can ask for anything more.

Bills-Strand noted that there is a 345 pv line on the south side of Yankee Hill Road, so obviously we can't go to the south to widen it because of the huge expense of moving the pv line. She assumes it will have to be shifted to the north. Why wouldn't we take that now? Why wouldn't you take the easement now rather than pay for it later? Bartels explained that part of the difficulty is that Public Works is just getting into the design process. There are several factors to be considered as to whether or not you can move it from one side to the other. If you are going to shift any significant distance you cannot do that instantaneously. It is a difficult question to answer as to how feasible it is until we have grades and some design work done on the project. There is at least 50' of right-of-way on the south side. As part of the design process, Public Works is going to have to look at the variables. He does not know that it is a given that the city will acquire 120' of right-of-way. He does not disagree that getting more right-of-way from the subdivision would preserve the alternative to shift it, but he hesitates to say with certainty that that is what can or will happen.

Bills-Strand recalled a subdivision along Old Cheney Road near HiMark at about 88th Street where the Commission determined that they could grant that easement if found that we needed to widen the road because they wanted to save the trees. Bartels recalls that in that situation the city was asking for the full 60' of dedication per the new standards and the developer was unwilling because the previous plat only required 50'. The easement was not granted beyond the 60'.

Larson inquired as to how much the land is raised on the south side of Yankee Hill Road. Mark Palmer of Olsson Associates stated that it is approximately 10 feet in the low areas. The back of the walkout lots are even with the road now where they were about 6 ft. below previously. They took the dirt and filled in the manmade pond used for cattle.

ANNEXATION NO. 04007 ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 12, 2004

Larson moved approval, seconded by Sunderman.

Pearson believes we have a missed opportunity. Unless we, as a Commission and as a community, quit bulldozing agricultural land, trees, lakes and whatever, and putting in things that look like this, we're not going to go forward as a city. We have got to think further than that. She understands Mr. Hergenrader's feeling of futility and she is going to vote no.

Motionfor approval carried 8-1: Krieser, Carlson, Sunderman, Carroll, Taylor, Larson, Marvin and Bills-Strand voting 'yes'; Pearson voting 'no'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 04009 ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 12, 2004

Larson moved approval, seconded by Sunderman and carried 8-1: Krieser, Carlson, Sunderman, Carroll, Taylor, Larson, Marvin and Bills-Strand voting 'yes'; Pearson voting 'no'. <u>This is a recommendation to the City Council.</u>

PRELIMINARY PLAT NO. 04004 ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 12, 2004

Larsonmoved to approve the staff recommendation of conditional approval, seconded by Krieser and carried 8-1: Krieser, Carlson, Sunderman, Carroll, Taylor, Larson, Marvin and Bills-Strand voting 'yes'; Pearson voting 'no'. This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



Change of Zone #04009 Big Thompson Creek 1st S. 56th & Yankee Hill Rd.

2002 aerial

Zoning:

R-1 to R-8Residential District AG Agricultural District

AG Agricultural District AGR Agricultural Residential District

R-C Residential Convervation District 0-1 Office District

O-2 Suburban Office District O-3 Office Park District

R-T Residential Transition District B-1 Local Business District

B-2 Planned Neighborhood Business District

B-3 Commercial District

B-4 Lincoln Center Business District B-5 Planned Regional Business District

H-1 Interstate Commercial District H-2 Highway Susiness District

H-3 Highway Commercial District H-4 General Commercial District

I-1 Industrial District
I-2 Industrial Park Di

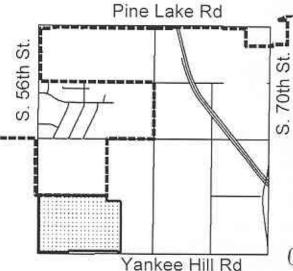
I-2 Industrial Park District I-3 Employment Center District

P Public Use District

One Square Mile Sec. 21 T9N R7E







011

Lincoln City - Lancaster County Planning Dept.

LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF LOT 39 I.T., AND A PORTION OF LOT 55 I.T., LOCATED IN THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 39 I.T., SAID POINT BEING 33.00 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHWEST QUARTER, AND 33.00 FEET EAST OF THE WEST LINE OF SAID SOUTHWEST QUARTER, SAID POINT BEING THE TRUE POINT OF BEGINNING, THENCE ON AN ASSUMED BEARING OF NORTH 00 DEGREES 04 MINUTES 42 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 39 I.T., SAID LINE BEING 33.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1,291.21 FEET TO THE NORTHWEST CORNER OF SAID LOT 39 I.T., THENCE NORTH 89 DEGREES 56 MINUTES 49 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 39 I.T, AND THE NORTH LINE OF LOT 55 I.T., A DISTANCE OF 1,538.45 FEET TO A POINT, THENCE SOUTH 00 DEGREES 18 MINUTES 08 SECONDS WEST, A DISTANCE OF 120.00 FEET TO A POINT, THENCE NORTH 89 DEGREES 56 MINUTES 49 SECONDS EAST, A DISTANCE OF 312.84 FEET TO A POINT, THENCE SOUTH 00 DEGREES 16 MINUTES 45 SECONDS EAST, A DISTANCE OF 1,161.16 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID LOT 55 I.T., SAID POINT BEING 40.00 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHWEST QUARTER, THENCE SOUTH 89 DEGREES 51 MINUTES 10 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 55 I.T., SAID LINE BEING 40.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 2.56 FEET TO A SOUTH CORNER OF SAID LOT 55 I.T., THENCE NORTH 75 DEGREES 24 MINUTES 13 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 55 I.T., A DISTANCE OF 78.59 FEET TO A SOUTH CORNER OF SAID LOT 55 I.T., SAID POINT BEING 60.00 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHWEST QUARTER, THENCE SOUTH 89 DEGREES 51 MINUTES 10 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 55 I.T., SAID LINE BEING 60.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1,000.00 FEET TO A SOUTH CORNER OF SAID LOT 55 I.T., THENCE SOUTH 88 DEGREES 54 MINUTES 05 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 55 I.T., A DISTANCE OF 104.78 FEET TO THE SOUTHWEST CORNER OF SAID LOT 55 I.T., SAID POINT BEING 58.26 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHWEST QUARTER, THENCE SOUTH 00 DEGREES 04 MINUTES 42 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 39 I.T., A DISTANCE OF 25.26 FEET TO THE SOUTHEAST

CORNER OF SAID LOT 39 I.T., SAID POINT BEING 33.00 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHWEST QUARTER, THENCE SOUTH 89 DEGREES 51 MINUTES 10 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 39 I.T., SAID LINE BEING 33.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 674.67 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 2,322,669.03 SQUARE FEET OR 53.3211 ACRES, MORE OR LESS.

Wednesday, January 21, 2004 F:\Projects\20031150\Lincsurvey\yplat\dwg\ylegal.doc

